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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|------------------------------|------------------|
| 10/769,153 | 01/29/2004 | Stuart D. Edwards | NOVA0003D | 8508 |
| 22862 | 7590 | 06/27/2007 | | |
| GLENN PATENT GROUP 3475 EDISON WAY, SUITE L MENLO PARK, CA 94025 | | | EXAMINER GIBSON, ROY DEAN | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3739 | |
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| | | | 06/27/2007 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/769,153

Applicant(s)

EDWARDS, STUART D.

Examiner

Roy D. Gibson

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-25 is/are pending in the application.
- 4a) Of the above claim(s) 12-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,8-10 and 15-23 is/are rejected.
- 7) ☒ Claim(s) 7,11,24 and 25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Entry of Amendment

Applicant's amendment filed on Apr. 9, 2007 is acknowledged. Claim 2 has been canceled by the applicant, claims 12-14 were previously withdrawn, therefore, claims 1, 3-11 and 15-25 are currently pending.

Prior Rejections or Objections

The following comments pertain to the rejections or objections in the most recent Office action mailed on Jan. 9, 2009. Rejections under 35 U.S.C. 102, 103 and 112 are withdrawn, however, new grounds of rejection are presented below.

The drawing corrections are approved by the examiner.

Conclusion

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3-6, 8-10 and 15-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Eggers et al. (6,178,824).

Regarding claims 1, 3, 4, 8-10, 15- 22, Eggers et al. disclose a method comprising steps of:

inserting a catheter into a body at a selected location;
positioning at least one electrode and irrigation and aspiration port in said body so that one or more electrodes are proximate to a surface of the tissue to be treated;
allowing passage of a flowable substance (saline) through said one surface;
delivering any of energy from at least one electrode proximate to said one surface; and
selecting and activating said electrodes by an operator, individually and as sequences of electrodes disposed in arrays, wherein the method includes a step of inserting said catheter manually into said selected location, and wherein said applied energy includes one or more of a group consisting of RF energy at about 300 to about 500 kilohertz (within the range of 50kHz to 1MHz recited by Eggers et al.) and the step of delivering a sensor (temperature sensor) to a selected location used to regulate the temperature via a feedback to the energy source via a controller (col. 1, lines 20-28, col. 2, lines 8-13, col. 2, line 55-col. 3, line 6, col. 3, line 55-col. 4, line 26, col. 5, lines 34-49, col. 6, lines 25-65, col. 8, lines 40-56, col. 9, lines 14-16, col. 12, lines 56-65 and col. 13, lines 44-63).

Further to claim 5 and 6, Eggers et al. disclose a step of providing a liquid-tight seal by means of a balloon (40) in a region proximate to the selected location (Figure 2C, # 40)

Further to claim 23, Eggers et al. disclose the energy is delivered to a wall of a blood vessel formed by smooth muscle cells or tissue.

Allowable Subject Matter

Claims 7, 11, 24 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

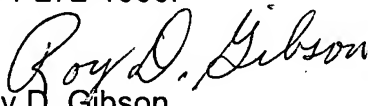
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roy D. Gibson whose telephone number is 571-272-4767. The examiner can normally be reached on Tu-Th, 7:30 am-4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Roy D. Gibson
Primary Examiner
Art Unit 3739

June 20, 2007